



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Eastern States

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Washington, DC 20003

<http://www.blm.gov/es>

### Bureau of Land Management

#### DECISION RECORD

Supplement Environmental Assessment

DOI-BLM-ES-0020-2012-0039-EA

#### Introduction

The Supplement Environmental Assessment (EA) for the Best Coal, Inc. coal lease presents additional information about the status of regulatory oversight for surface water runoff by the State of Alabama. The Proposed Action (PA) is to re-offer for lease approximately 160 acres of split estate federal coal for surface mining. The tract would be leased as Federal Coal Lease ALES-55199 by the U.S. Department of the Interior, Bureau of Land Management (BLM). As an addition of acreage to the Narley Mine, the life of the mine would be extended. Existing and permitted surface facilities would be used to support surface mining activities. The No Action Alternative is to not lease the federal coal.

The BLM, in cooperation with the U.S. Department of the Interior Office of Surface Mining, Reclamation, and Enforcement (OSMRE), conducted the original environmental analysis, and this supplement would not change the range of alternatives analyzed previously. The EA specifically addresses the potential consequences of implementing the PA and the No Action Alternative. The analysis was initiated by the agencies in response to an application to lease federal coal beneath the tract by competitive leasing protocol, submitted to the BLM.

#### Decision

As a result of the analysis presented in the Supplement to Environmental Assessment DOI-BLM-ES-0020-2012-0039-EA, it is my decision to select the proposed action as described above. A Finding of No Significant Impact (FONSI) supports this decision and has been prepared separately.

This decision is contingent on meeting all mitigating measures and monitoring requirements listed below.

Mitigation - The Environmental Protection Agency (EPA), under the Clean Air Act, has developed a complex system of regulations to protect air quality and is authorized to implement provisions of the Clean Air Act. This would assure compliance with related air quality standards. In addition, the Alabama Surface Mining Commission, (ASMC, as the agency authorized to enforce requirements of SMCRA, would monitor the operation to insure health and safety of the public and protection of the environment through the control of attendant air pollution.

Mitigation -The agencies authorized to enforce State and Federal regulations (committed mitigation) would monitor the proposed action to insure the public health and safety, and protection of the environment

Finally, the adoption of best management practices and the compliance with existing state permits, as detailed in the original EA and further detailed in the Supplement to the EA, have led to my decision that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of public lands and resources would not result from implementation of the proposed action. A no action alternative was considered, in which the BLM would not re-offer the lease of 160 acres of split estate federal coal for surface mining. However, this alternative was not selected because it does not meet the purpose of and need for the proposed action.

#### **Plan Conformance and Consistency**

I have determined that the proposed action is in conformance with the 1) the [Alabama](#) Record of Decision and Approved Resource Management Plan (March 2009); and 2) the Narley Mine No. 3 Coal Lease Resource Management Plan Amendment, Land Use Analysis and Environmental Assessment for Federal Coal Lease in Jefferson County, Alabama ([DOI-BLM-ES-0020-2012-0039-EA](#)) and is consistent with the applicable plans and policies of county, state, tribal, and federal agencies.

#### **Compliance with Major Laws**

The proposed decision complies with all applicable laws, regulations, executive orders, and policies including but not limited to the following:

- National Environmental Policy Act (1969) and the associated Council on Environmental Quality regulations at 43 CFR Parts 1500-1508
- Federal Land Policy Management Act (1976) as amended and the associated regulations at 43 CFR Part 3425
- Clean Water Act (1977)
- Clean Air Act (1970) as amended
- National Historic Preservation Act (NHPA) (1966) as amended and the associated regulations at 36 CFR Part 800
- Endangered Species Act (ESA) (1973) as amended
- Migratory Bird Treaty Act (1918)
- Resource Conservation and Recovery Act (RCRA) (1976) as amended
- Executive Order 11988- Floodplain Management
- Executive Order 119900 – Protection of Wetlands
- Executive Order 12898 – Environmental Justice in Minority Populations and Low-Income Populations

#### **Public Comments**

As part of the NEPA process for the original EA, a public hearing was conducted on November 14, 2014 at a location near the coal tract after advertising the meeting in the Federal Register (81 FR 13417) and in a local newspaper (The Birmingham News, 3/16, 3/23, and 3/30/2016). No comments were received at the meeting or in the 30 day period after the hearing, as provided in the public notice.

Finally, the Supplement to EA (DOI-BLM-ES-0020-2012-0039-EA) will undergo a 30 day comment period.

### **Consultation and Coordination**

In addition to the public involvement prescribed by 43 CFR 1610.2, previous consultation has occurred with ASMC, U. S. Department of Interior Fish and Wildlife Service (USFWS), the Alabama Department of Conservation and Natural Resources (ADCNR), the State of Alabama Historical Commission (AHC), the U.S. Army Corps of Engineers (ACOE), and the Region 4 Office of the Environmental Protection Agency (EPA).

The BLM has also conducted Tribal consultation previously. Pursuant to the applicable requirements BLM sent letters to 15 separate tribes. Responses were received from the Seminole Tribe of Florida and the Alabama Coushatta tribe. Neither tribe expressed any objection to the proposed lease sale; but they requested that they be notified should any artifacts be discovered during construction or mining. There are no Tribal lands in close proximity to the affected lands.

### **Rationale for the Decision**

The BLM participated in preparing this document as the United States Department of the Interior's delegated agency for leasing Federal minerals. This action meets the objectives of 43 CFR 3425, Leasing on Application. The Supplemental EA was prepared in order to provide the BLM's Authorized Officer with the information necessary to make a decision regarding whether the proposed action, re-offering the lease of Federal minerals, would have a significant impact on the human environment. Previous analyses include a discussion of the proposed action, reasonable alternatives, public participation, estimate of recoverable coal, the existing environment, an analysis of anticipated impacts, alternatives and mitigating measures to lessen the severity of impacts. The Supplemental EA does not alter the range of alternatives, therefore the effect analyses remain the same as described in the original EA (DOI-BLM-ES-0020-2012-0039-EA) and would remain contingent on the federal coal tract being successfully leased on a competitive basis with the highest acceptable bonus bid determining the lessee.

Finally, the proposed action, as mitigated, meets the criteria described in the Federal Land Policy and Management Act of 1976 to make decisions that are based on understanding of environmental consequences and take action to protect, restore and enhance the environment and to prevent undue and unnecessary degradation of public land.

### **Appeal Procedures**

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Attn: Authorized Officer, BLM Eastern States Office, 20 M Street SE, Suite 950, Washington, DC 20003) within 30 days from your receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see 43 CFR Section 4.413) at the same time the original documents are filed

with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the protestor's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

Mitchell Leverette

Mitchell Leverette  
Acting State Director,  
Eastern States

8/30/2018  
Date